



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MQB/154015

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 07, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on February 04, 2014, at Racine, Wisconsin.

The issue for determination is whether Petitioner's Qualified Medicare Beneficiary (QMB) eligibility may be backdated.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Rhonda Kramer

Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. An application for Medicaid benefits was filed with the agency in September 2013. At that time Petitioner's wife was in Wisconsin and Petitioner was noted to be living in Florida. Qualified Medicare Beneficiary benefits were approved for Petitioner's wife effective October 1, 2013. A deductible was established for her which was later met and she was certified for Medicaid. Benefits for Petitioner were denied as he was residing in Wisconsin.

3. On or about November 12, 2013 Petitioner's wife reported that Petitioner had moved to Wisconsin and was in the home as of November 1, 2013. The agency sought some verification and received on the day after Thanksgiving – November 29, 2013. It was processed in December and QMB benefits approved for Petitioner as of January 1, 2014.
4. Records obtained by the agency also indicate that Florida was paying Petitioner's QMB through December 2013.
5. Petitioner wants to have the eligibility backdated.

### **DISCUSSION**

Medicare is an insurance program and charges coinsurance, deductibles and monthly premiums. These out-of-pocket expenses of Medicare beneficiaries are generally referred to as 'Medicare cost-sharing.' For certain Wisconsin residents who receive Medicare, Wisconsin Medicaid pays some or all of their Medicare cost-sharing. These State Medicaid programs are called Medicare Savings Programs (MSP). *Medicaid Eligibility Handbook (MEH)*, §32.1.1.

The MSPs are QMB, SLMB and SLMB+. QMB benefits pay Medicare Part A & B premiums and Medicare deductibles and coinsurance. SLMB and SLMB+ pay Medicare Part B premiums. *MEH*, §32.1.3.

The eligibility date for an initial application is as follows:

#### 32.7.1.1 QMB Applications

For initial applications, QMB benefits begin on the first of the month after the month in which the individual is determined to be eligible/confirmed in CARES.  
*MEH*, §32.7.1.1.

Backdating is only possible where:

#### 32.8.1 QMB Backdating

Occasionally, the benefits of a person who is eligible for QMB Qualified Medicare Beneficiary did not begin on the first of the following month as they were supposed to. This can occur if:

1. The eligibility process was not completed within 30 days.
2. Certification of eligibility was not completed.
3. A fair hearing decision has ordered backdated QMB benefits.  
*MEH*, §32.8.1.

Wisconsin residency is a requirement for Medicaid eligibility in Wisconsin. That requires physical presence in the state. *MEH*, §6.1.1.

Petitioner was not physically present in Wisconsin until November 2013. That was reported on November 12, 2013. Proof of that was not provided until December because of a holiday. Further, records do show that Florida was still paying Petitioner's Medicare in December 2013. I am concluding that the agency correctly started Petitioner's QMB benefits for Petitioner on January 1, 2014.

### **CONCLUSIONS OF LAW**

That the agency correctly determined the eligibility date for Petitioner's QMB benefits.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 19th day of March, 2014

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 19, 2014.

Racine County Department of Human Services  
Division of Health Care Access and Accountability